



AUSTIN CITY COUNCIL
MINUTES

REGULAR MEETING
THURSDAY, AUGUST 25 2011

Invocation: Peg Syverson, Resident Teacher and Director, Appamada Buddhist Center

The following represents the actions taken by the Austin City Council in the order they occurred during the meeting. While the minutes are not in sequential order, all agenda items were discussed. The City Council of Austin, Texas, convened in a regular meeting on Thursday, August 25, 2011 in the Council Chambers of City Hall, 301 West Second Street, Austin, Texas.

Mayor Leffingwell called the Council Meeting to order at 10:12 a.m.

CONSENT AGENDA

The following items were acted on by one motion.

Items 1 through 3 were pulled for discussion.

- 4. Approve issuance of a rebate to Data Foundry (Texas 1) for the installation of energy efficient equipment in an amount not to exceed \$61,180.85.

The motion to approve the issuance of a rebate to Data Foundry (Texas 1) was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

- 5. Approve issuance of a rebate to Round Rock ISD - Westwood High School for the installation of energy efficient equipment in an amount not to exceed \$73,451.40.

The motion to approve the issuance of a rebate to Round Rock ISD – Westwood High School was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

Item 6 was pulled for discussion.

- 7. Authorize execution of a construction contract with PROTA, INC., (MBE/FH-61.69%) Austin, TX for the Walnut Creek Basin Odor and Corrosion Improvements Project in the amount of \$1,062,000 plus a \$106,200 contingency, for a total contract amount not to exceed \$1,168,200.

The motion authorizing the execution of a construction contract with Prota, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

- 8. Authorize execution of change order #8 to the construction contract with LAUGHLIN-THYSSEN, INC., Houston, TX, for the South I-35 W/WW Program Segment 1 - Slaughter Lane to Slaughter Creek, 36-Inch Water Main project in the amount of \$33,000, for a total contract amount not to exceed \$2,241,043.30.

The motion authorizing the execution of change order number eight to the construction contract with Laughlin-Thyssen, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

Item 9 was pulled for discussion.

10. Approve a resolution inducting the following honorees into the 2011 Austin Music Memorial: Sims Ellison, Carroll DesChamps "Champ" Hood, Walter Hyatt, Keith Ferguson, Dolores Fariss, Benjamin Leo "B.L." Joyce, Thomas James "TJ" McFarland, Randy "Biscuit" Turner, Raymond Guerrero Donley, and Gloria Jean Brown-Manor.

Resolution No. 20110825-010 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

11. Authorize the negotiation and execution of four contracts with three providers, all for one-year terms beginning on September 1, 2011, for juvenile crime prevention services under the 78744 Youth of Promise Initiative Community Youth Development Program. The contracts are with MEXIC-ARTE MUSEUM, in an amount not to exceed \$45,900, with two 12-month renewal options, in an amount not to exceed \$45,900 per renewal term for a total contract amount not to exceed \$137,700; THEATRE ACTION PROJECT, in an amount not to exceed \$49,346.94, with two 12-month renewal options, in an amount not to exceed \$49,346.94 per renewal term for a total contract amount not to exceed \$148,040.82; WORKER'S ASSISTANCE PROGRAM, in an amount not to exceed \$40,000, with two 12-month renewal options, in an amount not to exceed \$40,000 per renewal term, for a total contract amount not to exceed \$120,000, and WORKER'S ASSISTANCE PROGRAM, in an amount not to exceed \$28,926.69, with two 12-month renewal options, in an amount not to exceed \$28,926.69 per renewal term, for a total contract amount not to exceed \$86,780.07.

The motion authorizing the negotiation and execution of a contract with Mexic-Arte Museum and Theatre Action Project and two contracts with Workers Assistance program was approved on consent Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote. Council Member Tovorecused herself.

12. Authorize negotiation and execution of Amendment No.1 to the Agreement for Social Services with THE SALVATION ARMY, INC., to increase funding to provide for replacement of the air conditioning system, telephone system and plumbing repairs at the Women and Children's Shelter, in an amount to not to exceed \$263,000 for a total contract amount not to exceed \$4,901,466.

This item was withdrawn on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

13. Authorize negotiation and execution of Amendment No. 2 to the social services contract between the City of Austin and Caritas of Austin for the Best Single Source Program to provide funding for rent, utility assistance, and training to prevent homelessness in an amount not to exceed \$131,650 for a total contract amount not to exceed \$994,559.

This item was withdrawn on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

Items 14 through 18 were pulled to be heard after the presentation.

Item 19 was pulled for discussion.

20. Authorize the negotiation and execution of a 60-month lease for approximately 2,482 square feet of office space for use by the Health and Human Services Department for the Community Transformation Program office, located at 1106 Clayton Lane, Suite 490W, Austin, Texas, from TWIN TOWERS LTD. PARTNERSHIP, in an amount not to exceed \$224,975.

The motion authorizing the negotiation and execution of a lease for approximately 2,482 square feet of office space was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

21. Approve a resolution authorizing the filing of eminent domain proceedings for the Airport at Chesterfield Wastewater Improvement Project to acquire approximately 986 square feet of land for a wastewater line easement, out of the Thomas J. Chambers Survey, Abstract No. 7, Travis County, Texas, being out of a portion of Pampa Drive vacated per City of Austin Ordinance # 680314-C, and Lot 4, Block 7, Silverton Heights, a subdivision of record in Volume 4, Page 77 of the Plat Records of Travis County, Texas in the amount of \$3,205. The owner of the necessary property interests is 502 PAMPA, LLC, A TEXAS LIMITED LIABILITY COMPANY. The property is located at 6801 Airport Boulevard, Austin, Travis County, Texas.

Resolution No. 20110825-021 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

22. Approve a resolution authorizing the filing of eminent domain proceedings for the Ridgelea Storm Drainage Improvements Project for 1,213 square feet of land, more or less, for a permanent drainage easement out of Lot 39 and the north half of Lot 40, Ridgelea, a subdivision of record in Book 4, Page 258, Plat Records, Travis County, Texas, in the amount of \$34,989. The owner of the needed property interests is JOHNN ROBERT HENDERSON. The property is located at 3911 Idlewild Road, Austin, Travis County, Texas.

Resolution No. 20110825-022 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

23. Approve a resolution authorizing the filing of eminent domain proceedings for the East Bouldin - Euclid - Wilson Storm Drain Improvements Project for 6,336 square feet of land for permanent storm sewer easements; 15,973 square feet of land for temporary access easements; and 7,261 square feet of land for a temporary work space, staging area and material storage site easement, all being out of Lot 1 and Lot 2, HEB/Congress and Oltorf Subdivision No. 2, a subdivision of record in Book 98, Page 203-204 Plat Records, Travis County, Texas, in the amount of \$184,123. The owner of the needed property interests is HEB GROCERY COMPANY, LP. The property is located at 2400 South Congress, Austin, Travis County, Texas.

Resolution No. 20110825-023 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

24. Approve a resolution authorizing the filing of eminent domain proceedings for the Harris Branch Interceptor Lower B Project for 12,384 square feet of land for a 50-foot wide permanent wastewater easement out of land situated in the Josiah Willbarger Survey No. 42, Abstract No. 794 Travis County, Texas, being out of a remainder of called 25.00-acre tract of land, described as Tract Two, in Travis County, Texas, in the amount of \$1,704. The owners of the necessary property interests are CHARLES W. ALFF - INDEPENDENT EXECUTOR OF THE ESTATE OF EUNICE REID ALFF, DECEASED (WILLIAMSON COUNTY PROBATE CAUSE NO. 11-0314 CP4) AND CHARLES W. ALFF - TRUSTEE OF THE WILLIAM C. ALFF EXEMPT TRUST CREATED UNDER THE LAST WILL AND TESTAMENT OF WILLIAM C. ALFF, DECEASED, PROBATE CAUSE NO. 15424, COUNTY COURT OF LAW NO. 2, WILLIAMSON COUNTY, TEXAS. The property is located off Hill Lane, on the east side of SH 130, 0.4 mile north of Parmer Lane, in northeast Austin, Travis County, Texas 78653.

Resolution No. 20110825-024 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

25. Approve a resolution authorizing the filing of eminent domain proceedings for the Harris Branch Interceptor Lower B Project for a 7.482-acre tract of land for a 50-foot wide permanent wastewater easement in the James Manor Survey No. 40 Abstract No. 546, the James Gilleland Survey No. 41 Abstract No. 305 and the Josiah Wilbarger Survey No. 42, Abstract No. 794 in Travis County, Texas

being out of a called 232.03-acre tract of land, described as First Tract, in the amount of \$382,950. The owner of the needed property interests is THE BUTLER FAMILY PARTNERSHIP, LTD., A TEXAS LIMITED PARTNERSHIP. The property is located off of East Parmer Lane, at the northeast corner of the intersection of U.S. HWY 290 and Parmer Lane in Austin, Travis County, Texas 78753.

Resolution No. 20110825-025 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

26. Authorize the negotiation and execution of all documents and instruments necessary or desirable to purchase in fee simple a drainage easement totaling approximately 0.0715 acres out of Lot 40 and Lot 41, Ridgelea, a subdivision of record in Book 4 Page 258 Plat Records, Travis County, Texas, in Austin, Travis County, Texas, located at 3907 Idlewild Road from JUNE N. REESE for the Ridgelea Storm Drain Improvements Project, in an amount not to exceed \$89,823.

The motion authorizing the negotiation and execution of all documents and instruments necessary or desirable to purchase in fee simple a drainage easement was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

27. Approve a resolution authorizing the filing of eminent domain proceedings for the Harris Branch Interceptor Lower A Project for an approximate 28,402 square foot tract of land for a permanent wastewater easement, being out of and a part of the Mariquita Castro Survey No. 50, Abstract No. 160, in Travis County, Texas, in the amount of \$9,941. The owner of the needed property interests is ETON MEADOWS, LP, A TEXAS LIMITED PARTNERSHIP. The property is located along the north line of Parmer Lane, approximately midway between Harris Branch Parkway and SH-130, in Austin, Travis County, Texas 78653.

Resolution No. 20110825-027 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

28. Approve a resolution authorizing the filing of eminent domain proceedings for the Harris Branch Interceptor Lower A Project for approximately 3.074 total acres of land for a permanent wastewater easement, being out of and a part of the Mariquita Castro Survey No. 50, Abstract No. 160 and the Josiah Wilbarger Survey No. 42, Abstract No. 794, in Travis County, Texas, in the amount of \$43,040. The owners of the needed property interests are JPMORGAN CHASE BANK, AS TRUSTEE OF THE FREDERIC CLARKE MORSE, JR. EXEMPT FAMILY TRUST; AND SCOTT NOTLEY MORSE AND FREDERIC CLARKE MORSE, III, AS SUCCESSOR CO-INDEPENDENT EXECUTORS OF THE ESTATE OF FREDERIC CLARKE MORSE, SR. The property is located off Boyce Lane, along the north line of Parmer Lane, several lots west of SH-130, in Austin, Travis County, Texas 78653.

Resolution No. 20110825-028 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

29. Authorize the negotiation and execution of a 60-month lease with one (1) five (5) year renewal option for 3,152 square feet of office space located at 4029 S. Capital of Texas Highway, Suite 111 from BRODIE OAKS CENTER, LTD. for the Economic Growth and Redevelopment Services Office's Small Business Development Program in an amount not to exceed \$346,720.

The motion authorizing the negotiation and execution of a lease with one five year renewal option for office space from Brodie Oaks Center, Ltd. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

30. Approve a resolution authorizing the filing of eminent domain proceedings for the Harris Branch Interceptor Lower A Project for approximately 2.010 acres of land for a permanent wastewater easement, being out of and a part of the Mariquita Castro Survey No. 50, Abstract No. 160 and the Josiah Wilbarger Survey No. 42, Abstract No. 794, in Travis County, Texas, in the amount of \$113,536. The owner of the needed property interests is TRAFALGAR I, L.P., A TEXAS LIMITED PARTNERSHIP. The property is located off Gregg Manor Road, several lots north of Parmer Lane at the dead-end of Hill Lane and one lot west of SH-130, in Austin, Travis County, Texas 78653.

Resolution No. 20110825-030 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

31. Approve a resolution authorizing the filing of eminent domain proceedings for the Harris Branch Interceptor Lower A Project for 33,417 square feet of land for a permanent wastewater easement out of and a part of the Josiah Willbarger Survey No. 42, Abstract No. 794, in Travis County, Texas, same being a portion of the remainder of Tract Two, a 25.00 acre tract of land, in Travis County, Texas, in the amount of \$6,136. The owners of the necessary property interests are CHARLES W. ALFF - INDEPENDENT EXECUTOR OF THE ESTATE OF EUNICE REID ALFF, DECEASED (WILLIAMSON COUNTY PROBATE CAUSE NO. 11-0314 CP4) AND CHARLES W. ALFF - TRUSTEE OF THE WILLIAM C. ALFF EXEMPT TRUST CREATED UNDER THE LAST WILL AND TESTAMENT OF WILLIAM C. ALFF, DECEASED, PROBATE CAUSE NO. 15424, COUNTY COURT OF LAW NO. 2, WILLIAMSON COUNTY, TEXAS. The property is located off Hill Lane, on the west side of SH 130, and 0.4 mile north of Parmer Lane, in northeast Austin, Travis County, Texas 78653.

Resolution No. 20110825-031 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

Item 32 was pulled for discussion.

33. Authorize award, negotiation, and execution of Amendment No. 2 to a contract with ZOLL DATA SYSTEMS, Broomfield, CO, to add maintenance and support for the Zoll RescueNet billing system for the Emergency Medical Services Department in an amount not to exceed \$10,907.08 and to increase the five 12-month extension options in an amount not to exceed \$26,177 per extension option, for a revised total contract amount not to exceed \$737,539.96.

The motion authorizing the award, negotiation and execution of amendment number two to a contract with Zoll Data Systems was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

34. Authorize award and execution of Amendment No. 4 to a contract with SPANISH LANGUAGE INSTRUCTION, Austin, TX, for Spanish oral proficiency testing for the Public Safety Departments to exercise the second 12-month extension option period in an amount not to exceed \$37,540 and to authorize one additional 12-month extension option in an amount not to exceed \$37,540, for a revised total estimated contract amount not to exceed \$225,240.

The motion authorizing the award and execution of amendment number four to a contract with Spanish Language Instruction was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

35. Authorize award and execution of a 36-month requirements supply contract with SSI EMERGENCY EQUIPMENT, INC., Denver, CO to provide rope rescue equipment for the Austin Fire Department in an estimated amount not to exceed \$60,000, with three 12-month extension options in estimated amounts not to exceed \$20,000 per extension option, for a total estimated contract amount not to exceed \$120,000.

The motion authorizing the award and execution of a requirements supply contract with SSI Emergency Equipment, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

Item 36 was pulled for discussion.

37. Authorize award and execution of a 36-month requirements supply contract with STRYKER SALES CORPORATION, Portage, MI to provide ambulance stretchers, supplies, and repair services for the Emergency Medical Services Department in an estimated amount not to exceed \$1,102,849 with three 12-month extension options in estimated amounts not to exceed \$443,472 for the first extension option, \$487,819 for the second extension option, and \$536,601 for the third extension option, for a total

estimated contract amount not to exceed \$2,570,741. Stryker Sales Corporation is the sole source provider for these products.

The motion authorizing the award and execution of a requirements supply contract with Stryker Sales Corporation was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

38. Authorize award and execution of Amendment No.1, to add funding for the third year of the initial 36-month requirements contract with EMBLEMS, INC., Asheville, NC, for emblems and patches in an estimated amount not to exceed \$28,140.45 for a total \$84,421.35 and to authorize three 12-month extension option in the amount of \$28,140.45 per extension option, for a total revised contract amount not to exceed \$168,842.27.

The motion authorizing the award and execution of amendment number one to add funding for the third year of the initial requirements contract with Emblems, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

39. Authorize award and execution of a 36-month requirements supply contract with BOUNDTREE MEDICAL, LLC, Dublin, OH to provide airway kits for the Emergency Medical Services Department in an estimated amount not to exceed \$279,985 with three 12-month extension options in estimated amounts not to exceed \$132,916 for the first extension option, \$159,499 for the second extension option, and \$191,399 for the third extension option, for a total estimated contract amount not to exceed \$763,799. Boundtree Medical, LLC is the sole source provider for these products.

The motion authorizing the award and execution of a requirements supply contract with Boundtree Medical, LLC was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

Item 40 was pulled for discussion.

41. Authorize award and execution of Amendment No. 2 to a contract with NOLES PEST SERVICES, LLC., Georgetown, TX for pest control services for the Austin Convention Center Department to extend the contract for one 12-month period in an amount not to exceed \$13,240, and authorize one additional 12-month extension option in an amount not to exceed \$13,240, for a revised total estimated contract amount not to exceed \$79,445.

The motion authorizing the award and execution of amendment number two to a contract with NolesPestServices, LLC. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

42. Authorize award and execution of a 58-month requirements service agreement through the State of Texas Department of Information Resources (DIR) cooperative purchasing program with AT&T CORP., Dallas, TX for long distance telephone service and further authorize execution of Exhibit H to the TEX-AN NG Community Technology Services Agreement between the City, AT&T CORP., and DIR to facilitate direct payment for long distance telephone services to DIR in an estimated amount not to exceed \$1,750,000, with five 12-month extension options in an estimated amount not to exceed \$350,000 per extension option for a total estimated contract amount not to exceed \$3,500,000.

The motion authorizing the award and execution of a requirements service agreement through the State of Texas Department of Information Resource (DIR) cooperative purchasing program with AT & T Corp. and further authorize execution of Exhibit H to the TEX-AN NG Community Technology Services Agreement between the City, AT&T Corp. and DIR was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

43. Authorize award and execution of a 58-month requirements service agreement through the State of Texas Department of Information Resources (DIR) cooperative purchasing program with AT&T CORP., Dallas, TX, for local telephone and data services in an estimated amount not to exceed \$17,500,000, with five 12-

month extension options in an estimated amount not to exceed \$3,500,000 per extension option, for a total estimated contract amount not to exceed \$35,000,000.

The motion authorizing the award and execution of a requirements service agreement through the State of Texas Department of Information Resources (DIR) cooperative purchasing program with AT & T Corp. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

44. Authorize award, negotiation and execution of a 24-month requirements service contract with FERCAM GROUP (MBE/MH), Humble, TX, and TERRACON CONSULTANTS, INC., Austin, TX, or one of the other qualified responders to RFP DKC0025 for inspection, monitoring abatement planning and remediation of asbestos and lead-based paint at Austin Energy facilities in an estimated amount not to exceed \$500,000 each and combined, with two 24-month extension options in an estimated contract amount not to exceed \$500,000 each and combined per extension option, for a total estimated contract amount not to exceed \$1,500,000 each and combined.

The motion authorizing the award, negotiation and execution of a requirements service contract with Fercam Group (MBE/MH) and Terracon Consultants, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

45. Authorize award and execution of a 36-month requirements supply agreement with SWARCO REFLEX, INC., Mexia, TX to provide glass beads for reflective painting of roadways and airfield markings at the Austin-Bergstrom International Airport in an amount not to exceed \$287,528, with two 12-month extension options in an estimated amount not to exceed \$95,843 per extension option, for a total estimated contract amount not to exceed \$479,215.

The motion authorizing the award and execution of a requirements supply agreement with Swarco Reflex, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

46. Authorize award and execution of a 36-month service agreement with OZARK UNDERGROUND LABORATORY, INC., Protem, Missouri, to provide spill plan dye study of the Barton Springs segment of the Edwards Aquifer in an amount not to exceed \$289,195 with three 12-month extension options in an amount not to exceed \$96,398.33 per extension for a total contract amount not to exceed \$578,389.98. Ozark Underground Laboratory, Inc. is the sole source provider for these services.

The motion authorizing the award and execution of a service agreement with Ozark Underground Laboratory, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

47. Authorize award, negotiation and execution of a 36-month requirements service and supply contract with EATON CORPORATION, Raleigh, NC, for the purchase of UPS batteries including an extended warranty and service agreement for Austin Energy in an estimated amount not to exceed \$135,890.

The motion authorizing the award, negotiation and execution of a requirements service and supply contract with Eaton Corporation was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

48. Authorize award and execution of a 36-month requirements service contract with CAD & GRAPHIC SUPPLY, INC., Carrollton, TX for maintenance, repair, and supplies for HP plotters in an estimated amount not to exceed \$78,813, with three 12-month extension options in estimated amounts not to exceed \$28,941 for the first extension option, \$30,388 for the second extension option, and \$31,907 for the third extension option, for a total estimated contract amount not to exceed \$170,049.

The motion authorizing the award and execution of a requirements service contract with CAD & Graphic Supply, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

49. Authorize an increase to a contract amount with T-C BARTON SPRINGS LLC, Austin, TX, for the existing (2001) lease of office space at 811 Barton Springs Road in an estimated amount not to exceed \$390,000, for a total revised contract amount not to exceed \$7,312,265.
The motion authorizing an increase to a contract amount with T-C Barton Springs LLC was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
50. Authorize award, negotiation and execution of an amendment No. 6 to a requirements service contract with DOBLE ENGINEERING COMPANY, Watertown, MA for the lease of oil analysis equipment, software and consulting services for Austin Energy to authorize an additional five 12-month extension options in an estimated not to exceed \$59,238 per extension option, for a total estimated amount not to exceed \$568,782.
The motion authorizing the award, negotiation and execution of an amendment number six to a requirements service contract with Doble Engineering Company was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
51. Authorize award and execution of Amendment No. 2 to a contract with CLARITAS INC., San Diego, CA for Customer Segmentation Data services for Austin Energy to exercise the second 12-month extension option in an estimated amount not to exceed \$18,995, with two additional 12-month extension options in an estimated amount not to exceed \$18,995 per extension option and to authorize three additional 12-month extension options in an amount not to exceed \$18,995 per extension option, for a revised total estimated contract amount not to exceed \$170,955.
The motion authorizing the award and execution of amendment number two to a contract with Claritas Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
52. Authorize award and execution of a contract with MCBAIN SYSTEMS, Simi Valley, CA for the purchase of a Leica comparison microscope for the Austin Police Department in an amount not to exceed \$80,000. McBain Systems is the single source provider for this product.
The motion authorizing the award and execution of a contract with McBain Systems was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
53. Authorize award, negotiation and execution of Amendment No. 3 to a contract with the STATE of TEXAS DEPARTMENT OF INFORMATION RESOURCES (DIR), with ADJACENT TECHNOLOGIES, Austin, TX, to increase the contract for software upgrade, implementation and to extend support services including technical training, annual support and maintenance services for Austin Energy's existing IBM FileNet software, a document management and tracking system, for an estimated amount not to exceed \$920,000; and to add four 12-month extension options in an amount not to exceed \$962,000 for the third extension option, \$912,000 for the fourth extension option, \$908,200 for the fifth extension option and \$808,200 for the sixth extension option, for a total revised contract amount not to exceed \$6,440,400.
The motion authorizing the award, negotiation and execution of amendment number three to a contract with the State of Texas Department of Information Resources (DIR) with Adjacent Technologies was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
54. Authorize award, negotiation, and execution of Amendment No. 5 to a contract with SUMMUS INDUSTRIES, INC., (MBE/MB) Sugarland, TX, for additional Microsoft licenses in an amount not to exceed \$435,849.77 for a revised total contract amount not to exceed \$15,597,435.27.
The motion authorizing the award, negotiation and execution of amendment number five to a contract with Summus Industries, Inc. (MBE/MB) was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

55. Authorize award and execution of a contract through the TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) cooperative purchasing program with JOHNSON CONTROLS, INC., Austin, TX, for the purchase and installation of two new high efficiency chillers at the Givens Recreation Center and the Conley-Guerrero Senior Center in an estimated amount not to exceed \$141,135.
The motion authorizing the award and execution of a contract through the Texas Multiple Award Schedule (TXMAS) cooperative purchasing program with Johnson Controls, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
56. Authorize award and execution of Amendment No. 2 to a contract with DIGITAL INSPECTIONS, Corvallis, OR, for the maintenance and support of Austin Energy's CASCADE database software to exercise the second 12-month extension option in an estimated amount not to exceed \$20,277, authorize award of the two remaining 12-month extension options in an estimated amount not to exceed \$20,277 per extension option and to authorize five additional 12-month extension options in an amount not to exceed \$20,277 per extension option, for a revised total contract amount not to exceed \$202,767.
The motion authorizing the award and execution of amendment number two to a contract with Digital Inspections was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
57. Authorize award and execution of a 36-month requirements supply contract with BRUGG CABLES, LLC, Rome, GA, for the purchase of optical power ground wire cable for Austin Energy in an estimated amount not to exceed \$753,450, with three 12-month extension options in an estimated amount not to exceed \$251,150 per extension option, for a total estimated contract amount not to exceed \$1,506,900.
The motion authorizing the award and execution of a requirements supply contract with Brugg Cables was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
58. Authorize award, negotiation and execution of a 12-month requirements service contract with KORTERRA INCORPORATED, Chanhassen, MN, for the purchase of Application Service Provider (ASP) hosting services for damage prevention services for Austin Energy in an estimated amount not to exceed \$50,000, with four 12-month extension options in an estimated amount not to exceed \$50,000 per extension option, for a total estimated contract amount not to exceed \$250,000.
The motion authorizing the award, negotiation and execution of a requirements service contract with Korterra Incorporated was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
59. Authorize award and execution of Amendment No. 1, to a contract with PITNEY BOWES PRESORT MAILING SERVICES, DBA PSI GROUP, INC., Austin, TX, for presort/barcode mailing services, to add funding for the second 12-month extension option in an estimated amount not to exceed \$20,000 for a total revised contract amount not to exceed \$80,000.
The motion authorizing the award and execution of amendment number one to a contract with Pitney Bowes Presort Mailing Services, doing business as PSI Group, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
60. Authorize award, negotiation, and execution of a 15-month contract with VERMONT SYSTEMS, INC., Essex Junction, VT, or one of the other qualified offerors to RFP No. MSO0048REBID, to provide parks and recreation automated management software and hardware in an amount not to exceed \$323,675, with four 12-month extension options for hosting services and support in an amount not to exceed \$73,083 per extension option, for a total contract amount not to exceed \$616,007.
The motion authorizing the award, negotiation and execution of a contract with Vermont Systems, Inc. was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

61. Authorize negotiation and execution of Amendment No. 1 to an Interlocal Agreement with the Capital Area Council of Governments (CAPCOG) for aerial laser measurement services for high-resolution elevation data and contours through an existing contract between CAPCOG and Sanborn Map Company, Inc. to extend the interlocal agreement for twelve months and to increase the interlocal agreement in an amount not to exceed \$100,000 for a total agreement amount not to exceed \$450,000.
The motion authorizing the negotiation and execution of amendment number one to an interlocal agreement with the Capital Area Council of Governments (CAPCOG) was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0vote.
62. Authorize award and execution of 12-month supply agreements through the State of Texas Procurement and Support Services Cooperative Purchasing Program (TPASS) Cooperative Purchasing with XEROX CORPORATION, Austin, TX and CANON USA, INC., Austin, TX, for the rental of multi-function document imaging machines that expire over the next 12 months for various City departments, including copy charges and related services for a total estimated amount not to exceed \$829,086.
The motion authorizing the award and execution of supply agreements through the State of Texas Procurement and Support Services (TPASS) cooperative purchasing with Xerox Corporation was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0vote.
63. Approve third reading of an ordinance granting a franchise agreement to Bluebonnet Electric Cooperative ("BEC") for use of the City's rights of way for placing facilities or equipment to provide electric utility services within BEC's certificated area.
Ordinance No. 20110825-063 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0vote.
64. Approve an ordinance amending Section 12-4-64 (D) of the City Code to delete a portion of West 5th Street from the table of streets as a school zone with a maximum speed limit of 25 miles per hour.
Ordinance No. 20110825-064 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0vote.
65. Approve a resolution expressing the City's consent, as required by Internal Revenue Code Section 147(f), to Northeast Higher Education Facilities Finance Corporation's loan to American CAN in an amount not to exceed \$2,400,000 to (i) refinance the acquisition, construction and renovations of a school building located at 2406 Rosewood Avenue, Austin, TX 78702 and (ii) pay certain expenses in connection with the issuance of the Loans.
Resolution No. 20110825-065 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0vote.

Item 66 was pulled for discussion.

67. Approve a resolution supporting the 5th Street Mexican American Heritage Corridor. (Notes: SPONSOR: Council Member Mike Martinez CO 1: Mayor Lee Leffingwell CO 2: Council Member Chris Riley)
Resolution No. 20110825-067 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0vote.
68. Approve a resolution directing the City Manager to conduct an update of the 2001 Music Study, 2004 Film and Visual Media Study, 2005 Cultural Arts Update, and 2006 Entertainment Software/Digital Media Software (Gaming) Study. (Notes: SPONSOR: Mayor Lee Leffingwell CO 1: Council Member Mike Martinez CO 2: Council Member Chris Riley)
Resolution No. 20110825-068 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0vote.

69. Authorize negotiation and execution of an interlocal agreement with the University of Texas for assignment of three AmeriCorps VISTA members to the City of Austin. (Notes: SPONSOR: Mayor Lee Leffingwell CO 1: Council Member Laura Morrison)
The motion authorizing the negotiation and execution of an interlocal agreement with the University of Texas for assignment of three AmeriCorps Vista members to the City of Austin was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
71. Approve a resolution directing the City Manager to research and create a Latino Artist Incubator Program at the Emma S. Barrientos Mexican American Cultural Center, to research and consider for such program specified elements, and to report back to Council in 90 days with a funding and implementation plan. (Notes: SPONSOR: Council Member Mike Martinez CO 1: Council Member Chris Riley)
Resolution No. 20110825-071 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
72. Approve a resolution directing the City Manager to prepare and implement community outreach efforts in conjunction with Food Day scheduled for October 24, 2011 in order to increase awareness of Day. (Notes: SPONSOR: Council Member Mike Martinez CO 1: Council Member Kathie Tovo CO 2: Mayor Lee Leffingwell)
Resolution No. 20110825-072 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
73. Approve a resolution directing the City Manager to fund various programs from the Music Loan Program Fund and provide an accounting of the Downtown Venue Relocation Program and return to Council in 90 days. (Notes: SPONSOR: Council Member Mike Martinez CO 1: Mayor Lee Leffingwell CO 2: Council Member Chris Riley)
Resolution No. 20110825-073 was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.

Item 74 was pulled for discussion.

75. Approve the waiver of the requirements that allow affected individuals and neighborhood associations to oppose a street closure under City Code Chapter 14-8 for the revised route for the Susan G. Komen Race for the Cure event sponsored by the Austin affiliate of the Susan G. Komen Breast Cancer Foundation, Inc., which is to be held on Sunday, November 13, 2011. (Notes: SPONSOR: Council Member Chris Riley CO 1: Council Member Laura Morrison CO 2: Council Member Kathie Tovo)
The motion to approve the waiver of the requirements that allow affected individuals and neighborhood associations to oppose a street closure for the revised route for the Susan G. Komen Race for the Cure event was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
76. Approve the waiver of certain fees and requirements and authorize payment of certain costs for the City co-sponsored Austin PRIDE Parade and 5K run sponsored by Austin Pride Foundation, which is to be held on September 10, 2011, beginning at Riverside and South 1st Street and moving through downtown Austin. (Notes: SPONSOR: Council Member Laura Morrison CO 1: Mayor Pro Tem Sheryl Cole CO 2: Council Member William Spelman)
The motion to approve the waiver of certain fees and requirements and authorize payment of certain costs for the City co-sponsored Austin PRIDE Parade and 5K run sponsored by Austin Pride Foundation was approved on consent on Council Member Spelman's motion, Mayor Pro Tem Cole's second on a 7-0 vote.
77. Approve the reimbursement of certain fees for the 4th annual Austin Back to School Parade which was held Sunday, August 21, 2011 beginning at the Delco Center and ending at Bartholomew Park. (Notes:

SPONSOR: Mayor Pro Tem Sheryl Cole CO 1: Mayor Lee Leffingwell CO 2: Council Member Kathie Tovo)

The motion to approve the reimbursement of certain fees for the fourth annual Austin Back to School Parade was approved on consent on Council Member Spelman’s motion, Mayor Pro Tem Cole’s second on a 7-0 vote.

Items 78 through 83 were pulled for discussion.

Items 84 and 85 were briefing items set for 10:30 a.m.

Items 86 through 90 were Executive Session items.

Items 91 and 96 were bond sale items set for 2:00 p.m.

Items 97 through 107 were zoning items set for 2:00 p.m.

Items 108 through 115 were public hearing items set for 4:00 p.m.

DISCUSSIONITEMS

66. Approve appointments and certain related waivers to citizen boards and commissions, to Council subcommittees and other intergovernmental bodies and removal and replacement of members.

The following appointments and waivers were approved on Council Member Spelman’s motion, Mayor Pro Tem Cole’s second on a 7-0 vote.

Board/Nominee

Nominated by

2012 Charter Revision Committee

David Butts
replacing Margaret Menicucci
Delia Garza
Richard Jung
Ann Kitchen
Dolores Lenzy-Jones
Fred Lewis
Margaret Menicucci
Fred McGhee
Susan Moffat
Ted Siff
Kathleen Vale

Mayor Leffingwell

Council Member Martinez
Council Member Tovo
Council Member Spelman
Council Member Spelman
Council Member Tovo
Council Member Riley
Council Member Morrison
Council Member Morrison
Council Member Riley
Council Member Martinez

African American Resource Advisory Commission

Clifford Gillard

Council Member Morrison

Austin Mayor’s Committee for People with Disabilities

Chip Howe

Council Member Tovo

Board of Adjustment

Susan Morrison

Council Member Tovo

Building and Standards Commission

Stacy Kaplowitz

Council Member Tovo

<u>Construction Advisory Committee</u> Suzanne Litz	Council Member Riley
<u>Downtown Commission</u> Kevin Foster	Council Member Tovo
<u>Electric Utility Commission</u> Barbara Day	Council Member Tovo
<u>Environmental Board</u> Marisa Perales	Council Member Martinez
<u>Mechanical, Plumbing and Solar Board</u> William Harris, Jr.	Council Member Tovo
<u>Planning Commission</u> Jean Stevens	Council Member Tovo
<u>Public Safety Commission</u> Mike Levy	Council Member Riley
<u>Residential Design and Compatibility Commission</u> Missy Bledsoe	Council Member Morrison
<u>Robert Mueller Municipal Airport Plan Implementation Advisory Committee</u> Jerry Perkins	Council Member Tovo
<u>Urban Transportation Commission</u> Richard MacKinnon	Council Member Tovo

Waivers

Approve a waiver of the residency requirement in Section 2-1 -21 of the City Code for Tasha McCarter’s service on the Electric Board.

- 82. Approve a resolution directing the City Manager to execute a legal settlement related to Nathaniel Sanders, Sr., et al. v. Leonardo Quintana and the City of Austin, No. A09-CA-00426 SS, in the United States District Court for the Western District of Texas, Austin Division, in the amount of \$750,000. (Notes: SPONSOR: Mayor Pro Tem Sheryl Cole CO 1: Council Member Laura Morrison CO 2: Council Member Kathie Tovo)
Resolution No. 20110825-082 was approved on Mayor Pro Tem Cole’s motion, Council Member Tovo’s second on a 5-2. Those voting aye were: Mayor Pro Tem Cole, Council Members Morrison, Riley, Spelman, and Tovo. Those voting nay were: Mayor Leffingwell and Council Member Martinez.
- 1. Approve the minutes of the Austin City Council work session of August 16, 2011, budget work session of August 17, 2011, and regular meeting of August 18, 2011.
The minutes from the work session of August 16, 2011, budget work session of August 17, 2011 and regular meeting of August 18, 2011 were approved on Council Member Martinez’ motion, Council Member Riley’s second on a 6-0 vote. Mayor Pro Tem Cole was off the dais,
- 70. Approve a resolution affirming the City Council’s support for the Barton Springs Pool Master Plan and directing the City Manager to ensure expeditious completion of plan projects underway, to work with and

receive input from community groups in order to complete plan projects; and to consider including the Plan for additional funding in the next bond election. (Notes: SPONSOR: Council Member Mike Martinez CO 1: Council Member Chris Riley)

Resolution No. 20110825-070 was approved with the following friendly amendments on Council Member Martinez' motion, Mayor Leffingwell's second on a 7-0 vote.

There was a friendly amendment from Council Member Morrison to have the "Be It Resolved" and the first and third "Be It Further Resolved" read as follows. This was not accepted by Mayor Leffingwell who seconded the motion.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

"That the City Council affirms its support for the Barton Springs Pool Master Plan as per Resolution No. 20090115-028."

BE IT FURTHER RESOLVED:

"The City Manager is directed to work with and receive input from community groups in order to complete projects in the Plan and the joint subcommittee of the Environmental Board and the Parks and Recreation Board to consider long term projects to develop a draft implementation plan and to bring the draft implementation plan to Council for approval."

BE IT FURTHER RESOLVED:

"The City Manager is directed to consider including the implementation Plan for additional funding in the next bond election."

There was a second friendly amendment from Council Member Morrison to have the "BE IT RESOLVED" paragraph read as follows: "That the City Council affirms its support for the Barton Springs Pool Master Plan as per Resolution No. 20090115-028." This was accepted by the maker of the motion and Mayor Leffingwell, who seconded the motion.

There was a friendly amendment from Council Member Tovo to have the first, "BE IT FURTHER RESOLVED" read as follows. This was accepted by the maker of the motion and Mayor Leffingwell, who seconded the motion.

BE IT FURTHER RESOLVED:

"The City Manager is directed to continue to take input from the public, friends of Barton Springs Pool and other community groups to complete elements of the Barton Springs Pool Master Plan."

9. Approve an application and related resolution for submission to the Capital Area Texas Sustainability (CATS) Consortium for selection of an official Demonstration Site for the Sustainable Places Project. **The motion approving an application and Resolution No. 20110825-009 was approved on Council Member Martinez' motion, Council Member Riley's second on a 7-0 vote.**

BRIEFING

85. Presentation and discussion regarding options and related administration costs for a May or November 2012 election. **The presentation was made by Syd Falk, Bickerstaff Heath Delgado Acosta LLP.**

CITIZEN COMMUNICATION: GENERAL

Laura Presley- The dangers of fluoridation

Rae Nadler-Olenick- Water fluoridation

John Scottish - Fluoride in Water.

Darcy Bloom - Fluoridation.

Stacey D. Hopp- Flouride in Austins water

Ronnie Reefersseed - Peace, freedom, fluoride and the kill-grid

Mona Gonzalez - Support for children and families in Dove Springs **Not present when name was called.**

Carolannrose KENNEDY - Police brutality

Mayor Leffingwell recessed the Council Meeting to go into Executive Session at 12:40 p.m.

EXECUTIVE SESSION

The City Council went into Executive Session, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel, to discuss matters of land acquisition, litigation, and personnel matters as specifically listed on this agenda and to receive advice from Legal Counsel regarding any other item on this agenda.

- 86. Discuss legal issues related to the claims with Rodman LLC, Pacific Indemnity Company, and Traveler's Insurance Company, in connection with construction of Robert Mueller Municipal Airport Section 5, Phases 1 and 2. (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).
This item was withdrawn.
- 87. Discuss legal issues related to Open Government matters (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).
This item was withdrawn.
- 88. Discuss legal issues relating to districting, proposed city charter amendments, election legislation, and election dates (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).
This item was withdrawn.
- 89. Discuss legal issues related to the Deputy City Clerk position. (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).
- 90. Discuss the employment, duties, and compensation and benefits for the City Manager, the City Auditor, the City Clerk and the Municipal Court Clerk (Personnel Matters pursuant to Section 551.074 of the Government code).

Executive Session ended and Mayor Leffingwell called the Council Meeting back to order at 1:49 p.m.

DISCUSSION ITEMS CONTINUED

Items 2 and 3 were acted on in a combined motion.

2. Authorize negotiation of a power purchase agreement with MAP Royalty Inc., Palo Alto, CA, for a term of up to twenty-five years for up to 91 megawatts of wind-generated electricity in an estimated amount of \$13,000,000 per year, for an estimated total contract amount of \$325,000,000.
The motion authorizing the negotiation of a power purchase agreement with MAP Royalty Inc. was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem was off the dais.
3. Authorize negotiation of a power purchase agreement with Duke Energy Generation Services, Houston, TX, for a term of up to twenty-five years for up to 200 megawatts of wind-generated electricity in an estimated amount of \$32,800,000 per year, for an estimated total contract amount of \$820,000,000.
The motion authorizing the negotiation of a power purchase agreement with Duke Energy Generation Services was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem was off the dais.

DISCUSSION AND POSSIBLE ACTION ON BOND SALES

Items 91 through 96 were acted on in a combined motion.

91. Approve an ordinance authorizing the issuance of \$78,090,000 City of Austin Public Improvement Bonds, Series 2011A, and all related documents, and approve related fees. These bonds are being issued to provide funding relating to reimbursement resolutions previously approved by Council for 2006 and 2010 bond election projects. The funds will be used as described in the Council-approved bond sale schedule for infrastructure, including streets and signals, watershed protection, parks and recreation projects, cultural arts facilities, central library, and public safety facilities.
Ordinance No. 20110825-091 was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.
92. Approve an ordinance authorizing the issuance of \$8,450,000 in City of Austin Public Improvement Bonds, Taxable Series 2011B, and all related documents, and approve related fees. The funding is for reimbursement resolutions that have already been approved by Council and the funds will be used for Affordable Housing projects approved by the Austin voters in the 2006 bond election.
Ordinance No. 20110825-092 was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.
93. Approve an ordinance authorizing the issuance of \$51,150,000 in City of Austin Certificates of Obligation, Series 2011, and all related documents, and approve related fees. These funds will be used for environmental remediation projects, transportation projects, street improvements, and the Waller Creek Tunnel Project.
Ordinance No. 20110825-093 was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.
94. Approve an ordinance authorizing the issuance of \$26,725,000 in City of Austin, Texas, Public Property Finance Contractual Obligations, Series 2011, related documents, and approve related fees. Contractual obligations will be used to finance the purchase of equipment for Communications & Technology Management, Police, Public Works, Transportation, Solid Waste Services, and Austin Water Utility. The financing of this equipment is consistent with the Financial Policies for the non-voter approved debt listed in Attachment A as back-up to this request for Council action.
Ordinance No. 20110825-094 was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.
95. Approve an ordinance authorizing the issuance of City of Austin Public Improvement Refunding Bonds, Series 2011A, in an amount not to exceed \$125,000,000, by March 30, 2012 in accordance with the parameters set out in the ordinance, authorizing related documents, and approving related fees. These

funds will be used to refund certain older refunding bonds, Public Improvement Bonds, Certificates of Obligation, and HUD Section 108 loan for the Austin Resource Center for the Homeless. Refunding these obligations is intended to result in present value savings exceeding the City's target guideline of 4.25%.

Ordinance No. 20110825-095 was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.

96. Approve an ordinance authorizing the issuance of City of Austin, Public Improvement Refunding Bonds, Taxable Series 2011B, in an amount not to exceed \$3,500,000 in accordance with the parameters set out in the ordinance, and all related documents, and approving related fees. These funds will be used to refund a HUD Section 108 loan for the Millennium Youth Center (formerly the Central City Entertainment Center). When combined with the Series 2011A Refunding Bonds, refunding these obligations is intended to result in present value savings exceeding the City's target guideline of 4.25%.

Ordinance No. 20110825-096 was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.

DISCUSSION ITEMS CONTINUED

6. Approve a resolution appointing five new individuals to the stakeholders' group of the Executive Management Committee of the Austin-LCRA Water Partnership in accordance with the Supplemental Water Supply Agreement between City of Austin and LCRA.

Resolution No. 20110825-006 was approved on Council Member Spelman's motion, Council Member Riley's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.

19. Approve a resolution authorizing the City Manager to apply for grant funding up to \$3,000,000 from the U.S. Department of Housing and Urban Development, Office of Sustainable Housing and Communities, for the Fiscal Year 2011 Community Challenge Planning Grant Program to assist in developing the City-owned tract known as Colony Park.

Resolution No. 20110825-019 was approved on Council Member Morrison's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.

14. Approve a settlement of claims with Rodman LLC, Pacific Indemnity Company, and Traveler's Insurance Company, in connection with construction of Robert Mueller Municipal Airport, Section 5, Phases 1 and 2.

The motion to settle the above referenced lawsuit, by the City receiving \$186,202 from Pacific Indemnity, Rodman LLC and Travelers Insurance company, was approved on Council Member Martinez' motion, Council Member Spelman's second, on a 6-0 vote. Mayor Pro Tem Cole was off the dais.

15. Approve a settlement in Sir Smith v. Leonardo Quintana and City of Austin, Case No. A-10-CA-778-SS; In the U.S. District Court for the Western District of Texas, Austin Division

The motion to approve a settlement in Sir Smith v. Leonardo Quintana and City of Austin was approved on Council Member Spelman's motion, Council Member Morrison's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais. The City will pay \$175,000, in exchange for the payment, the plaintiff and lawyers will dismiss their lawsuit against the City with prejudice and release the City and Leonardo Quintana of any claims that were or could have been brought in a lawsuit.

17. Approve a settlement in Emergency Responders for Equality, et al v. Rhoda Mae Kerr, et al., No. A 09 CA 886 LY, In the U.S. District Court for the Western District of Texas, Austin Division.

The motion to approve a settlement in Emergency Responders for Equality, et al v. Rhoda Mae Kerr, et al. with the following terms was approved on Council Member Martinez' motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais. The payment, \$850,000 dollars will be divided approximately half to two individual firefighters, Greg Nye and

Don Smith, and half to attorneys for fees and cost. The City has agreed to not discriminate based on race and will not use race or ethnicity on any charts for purposes of making discretionary appointments to division chief. The City has agreed to provide two hours of Equal Employment Opportunity training to officers in Austin Fire Department ranked Battalion Chief or higher. The plaintiffs have agreed to dismiss with prejudice and release the City from any claims that were or could have been brought in a lawsuit.

16. Authorize an amendment to the legal services agreement with Boulette & Golden L.L.P. to provide legal services to the City related to Emergency Responders for Equality, et al v. Rhoda Mae Kerr, et al., Cause No. A 09 CA 886 LY; In the U.S. District Court for the Western District of Texas, Austin Division. The amendment is in the amount of \$148,000 for a total contract amount not to exceed \$200,000.
This item was withdrawn without objection.
18. Approve an offer of judgment in Emergency Responders for Equality, et al v. Rhoda Mae Kerr, et al., No. A 09 CA 886 LY, In the U.S. District Court for the Western District of Texas, Austin Division.
This item was withdrawn without objection.
32. Authorize negotiation and execution of a one-year Interlocal Agreement between the City of Austin and the University of Texas at Austin, for performance of hydrodynamic flow modeling of Barton Springs Pool, with two 12-month extensions for \$89,460 for the first year, \$88,130 for the second year, if extended, and \$94,767 for the third year, if extended, for a total amount not to exceed \$272,357. Funding in the amount of \$89,460 is available in the Fiscal Year 2011-2012 Operating Budget of the Parks and Recreation Department. Funding for extension options is contingent upon funding in future budgets.
The motion authorizing the negotiation and execution of an interlocal agreement between the City of Austin and the University of Texas at Austin was approved on Council Member Morrison's motion, Council Member Spelman's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.
36. Authorize award and execution of a 36-month requirements supply contract with GT DISTRIBUTORS, INC., Austin, TX to provide tasers for the Austin Police Department in a total estimated contract amount not to exceed \$600,000. GT Distributors, Inc. is the sole source provider for these products.
The motion authorizing the award and execution of a requirements supply contract with GT Distributors, Inc. was approved on Council Member Spelman's motion, Council Member Martinez' second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.
40. Authorize award, negotiation, and execution of a 24-month contract through the State of Texas Department of Information Resources cooperative purchasing program with INSIGHT PUBLIC SECTOR, INC., Tempe, AZ, for the purchase, installation, integration, testing, and maintenance of Panasonic digital vehicular video systems in an amount not to exceed \$3,117,575.87.
The motion authorizing the award, negotiation and execution of a contract through the State of Texas Department of Information Resources cooperative purchasing program with Insight Public Sector, Inc. was approved on Council Member Martinez' motion, Council Member Tovo's second on a 6-0 vote. Mayor Pro Tem Cole was off the dais.
74. Approve a resolution expressing the City of Austin's support for Workforce Solutions' proposed Veterans Resource Center and related grant application to the Texas Veterans Commission. (Notes: SPONSOR: Mayor Lee Leffingwell CO 1: Council Member Kathie Tovo)
Resolution No. 20110825-074 was approved on Council Member Martinez' motion, Council Member Morrison's second on a vote. Mayor Pro Tem Cole was off the dais.
83. Set a public hearing to consider an ordinance to amend the City Code to establish requirements for residential garage sales and tours and to clarify requirements relating to art production on residential property. (Suggested date and time: September 22, 2011, 4:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX).

The public hearing was set on consent for September 22, 2011 at 4:00 p.m., City Hall at 301 W. Second Street, Austin, TX. on Council Member Martinez' motion, Council Member Spelman's second on a 5-0 vote. Mayor Pro Tem Cole and Council Member Tovo were off the dais.

BRIEFINGS CONTINUED

84. Resource Management Commission water conservation and reuse briefing
The presentation was made by Leo Dielmann, Chair and Chris Herbert, Member of Resource Management Commission and Paul Robbins, Environmental Activist.

DISCUSSION ITEMS CONTINUED

78. Approve a resolution relating to the compensation and benefits for the City Manager. (Notes: SPONSOR: Mayor Lee Leffingwell CO 1: Council Member Chris Riley CO 2: Council Member Kathie Tovo)
Resolution No. 20110825-078 was approved on Mayor Pro Tem Cole's motion, Council Member Riley's second on a 7-0 vote.
79. Approve a resolution relating to the compensation and benefits for the City Auditor. (Notes: SPONSOR: Mayor Lee Leffingwell CO 1: Council Member Chris Riley CO 2: Council Member Kathie Tovo)
Resolution No. 20110825-079 was approved on Mayor Pro Tem Cole's motion, Council Member Spelman's second on a 7-0 vote.
80. Approve a resolution relating to the compensation and benefits for the City Clerk. (Notes: SPONSOR: Mayor Lee Leffingwell CO 1: Council Member Chris Riley CO 2: Council Member Kathie Tovo)
Resolution No. 20110825-080 was approved on Mayor Pro Tem Cole's motion, Council Member Spelman's second on a 7-0 vote.
81. Approve an ordinance relating to the compensation and benefits for the Municipal Court Clerk. (Notes: SPONSOR: Mayor Lee Leffingwell CO 1: Council Member Chris Riley CO 2: Council Member Kathie Tovo)
Ordinance No. 20110825-081 was approved on Mayor Pro Tem Cole's motion, Council Member Riley's second on a 7-0 vote.

PUBLIC HEARINGS AND POSSIBLE ACTION

115. MP-2011-0003 Conduct a public hearing and consider an ordinance amending the Austin Tomorrow Comprehensive Plan by adopting the Downtown Austin Plan, directing the City Manager to process code amendments recommended in the Downtown Austin Plan, and initiating re-zonings of properties as recommended in the Downtown Austin Plan. The planning area includes properties bounded approximately by Interstate 35 to the east, the west side of Lamar Blvd. to the west, Lady Bird Lake to the south and Martin Luther King Jr. Blvd. to the north.
This item was postponed to November 3, 2011 with the following friendly amendment on Mayor Pro Tem Cole's motion, Council Member Morrison's second on a 7-0 vote. A friendly amendment was made by Council Morrison to postpone to October 6, 2011. This was accepted by the maker of the motion. Direction was given to include Cure Rezoning in the discussion and have the Planning Commission and Community Development Commission weigh in on the discussion.

ZONING ITEM (HEARINGS CLOSED)

97. C14-2011-0006 - 701 & 711 West 7th St. Rezoning - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 701 & 711 West 7th Street (Shoal Creek Watershed) from general office (GO) and community commercial (GR) district zoning to central business district-conditional overlay (CBD-CO) combining district zoning. First reading approved on July 28, 2011. Vote: 5-2. Applicant: LOWA, Ltd. (Daryl Kunik) Agent: Thrower Design (Ron Thrower) City Staff: Clark Patterson, 974-7691.

Ordinance No. 20110825-097 for central business district-conditional overlay (CBD-CO) combining district zoning was approved on Council Member Martinez' motion, Council Member Spelman's second on a 5-2 vote. Those voting aye were: Mayor Leffingwell, Mayor Pro Tem Cole, Council Members Martinez, Riley and Spelman. Those voting nay were: Council Members Morrison and Tovo.

ZONING CONSENT ITEMS (PUBLIC HEARINGS)

The following zoning items were acted on by one motion. No separate action occurred on any of the items.

98. NPA-2011-0001.01 - Studio 141 - Conduct a public hearing and approve an ordinance amending Ordinance No. 980827-B, the Dawson Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 141 West Oltorf Street (East Bouldin Creek Watershed) from single family use to mixed use or mixed use/office land use. Staff Recommendation: Not recommended. Planning Commission Recommendation: At the request of the applicant, the case has been withdrawn. Owner/Applicant: Kathleen A. Pixley. City Staff: Maureen Meredith, 974-2695.

This item was withdrawn on consent on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.

99. C14-2011-0015 - Studio 141 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 141 West Oltorf Street (East Bouldin Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning. Staff Recommendation: To deny general office-mixed use-conditional overlay-neighborhood plan (GO-MU-CO-NP) combining district zoning. Planning Commission Recommendation: At the request of the applicant, the case has been withdrawn. Owner/Applicant: Kathleen Pixley. City Staff: Stephen Rye, 974-7604.

This item was withdrawn on consent on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.

100. C14-95-0129.01 - Expo Center Section II - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5805 Burleson Road (Williamson Creek Watershed) from limited industrial service-planned development area-neighborhood plan (LI-PDA-NP) combining district zoning to limited industrial service-planned development area-neighborhood plan (LI-PDA-NP) combining district zoning to change a condition of zoning. Staff Recommendation: To grant limited industrial service-planned development area-neighborhood plan (LI-PDA-NP) combining district zoning to change a condition of zoning. Planning Commission Recommendation: To grant limited industrial service-planned development area-neighborhood plan (LI-PDA-NP) combining district zoning to change a condition of zoning. Owner/Applicant: Expo Partners III, Ltd. c/o Trammel Crow Company (James H. Matoushek). Agent: Carlson, Brigance & Doering, Inc. (Charles R. Brigance, Jr.). City Staff: Wendy Rhoades, 974-7719.

The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No. 20110825-100 for limited industrial service-planned development area-neighborhood plan (LI-PDA-NP) combining district zoning to change a condition of zoning was approved on consent on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.

101. C14-2011-0066 - Creekside - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5616 South 1st Street (Williamson Creek Watershed) from community commercial-conditional overlay (GR-CO) combining district zoning to townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-conditional overlay (SF-6-CO) combining district zoning. Zoning and Platting Commission Recommendation: To be reviewed on September 20, 2011. Owner/Applicant: Equilibrium Development (Brad Schubert). Agent: PSW Homes (Ryan Diepenbrock). City Staff: Wendy Rhoades, 974-7719.
This item was postponed on consent to October 20, 2011 at the staff's request on Council Member Spelman's motion, Council Member Morrison's second on a 7-0vote.
102. C14-2011-0070 - Bergstrom Duplex Rezoning - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2508 Mitchell Lane (Slaughter Creek Watershed) from development reserve (DR) district zoning and single family residence-standard lot (SF-2) district zoning to family residence-conditional overlay (SF-3-CO) combining district zoning. Staff Recommendation: To grant family residence-conditional overlay (SF-3-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant family residence-conditional overlay (SF-3-CO) combining district zoning. Owner/Applicant: Cara Griswold. Agent: Land Answers, Inc. (Jim Wittliff). City Staff: Wendy Rhoades, 974-7719.
The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No. 20110825-102 for family residence-conditional overlay (SF-3-CO) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Morrison's second on a 7-0vote.
104. C814-2008-0136.01 - North Austin Medical Centre Planned Unit Development Amendment #1 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 12221 North Mo-Pac Expressway Northbound and 2311-2511 Park Bend Drive (Walnut Creek Watershed) from planned unit development (PUD) district zoning to planned unit development (PUD) district zoning, to change a condition of zoning. Staff Recommendation: To grant the 1st amendment of the North Austin Medical Centre PUD. Zoning and Platting Commission Recommendation: To be reviewed on September 6, 2011. Owner/Applicant: St. David's Healthcare Partnership L.P., LLP (Malcolm Bellsie). Agent: City of Austin-Parks and Recreation Department (Chris Yanez), Coats Rose Yale Ryman & Lee, P.C. (John M. Joseph). Staff: Sherri Sirwaitis, 974-3057.
This item was postponed on consent to September 22, 2011 at the staff's request on Council Member Spelman's motion, Council Member Morrison's second on a 7-0vote.
105. C814-96-0003.10 - Pioneer Crossing Planned Unit Development Amendment #10 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2400-2700 Block of East Farner Lane (Harris Branch Watershed) from planned unit development (PUD) district zoning to planned unit development (PUD) district zoning, to change a condition of zoning. Staff Recommendation: To grant the 10th amendment of the Pioneer Crossing PUD. Zoning and Platting Commission Recommendation: To grant PUD zoning, with conditions. Owner/Applicant: Air Products and Chemicals, Inc. (Susan O. Reber). Agent: Alice Glasco Consulting (Alice Glasco). Staff: Sherri Sirwaitis, 974-3057.
The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No. 20110825-105 for PUD zoning with conditions was approved on consent on Council Member Spelman's motion, Council Member Morrison's second on a 7-0vote.
106. C14-2011-0058 - 707 West Ave. Rezoning - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 705, 707, 709, 711 West Avenue & 710 West 7th Street (Shoal Creek Watershed) from general office (GO) district zoning to general commercial services (CS) district zoning. Staff Recommendation: To grant general commercial services-conditional overlay (CS-CO) combining district zoning. Planning Commission

Recommendation: To grant general commercial services-conditional overlay (CS-CO) combining district zoning. Applicant: Cirrus Logic (Thurman Case). Agent: Armbrust and Brown, P.L.L.C. (Richard Suttle) City Staff: Clark Patterson, 974-7691. A valid petition has be file in opposition to this rezoning request.

The public hearing was held open and the motion to approve the first reading of the ordinance for general commercial services-conditional overlay (CS-CO) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.

107. C14-2011-0078 - Serra Residence - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1610-1612 Meghan Lane from family residence (SF-3) and general commercial services (CS) district zoning to family residence (SF-3) district zoning. Staff Recommendation: To approve family residence (SF-3) district zoning. Planning Commission recommendation: To approve family residence (SF-3) district zoning. Applicant: Jeff and Deanna Serra. Agent: Land Answers, Inc. (Jim Wittliff). City Staff: Stephen Rye 974-7604.
- The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No 20110825-107 for family residence (SF-3) district zoning was approved on consent on Council Member Spelman's motion, Council Member Morrison's second on a 6-0 vote. Council Member Tovo recused herself.**

ZONING DISCUSSION ITEM

103. C14-2011-0060 - West Gibson Commercial - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 108 West Gibson Street (East Bouldin Creek Watershed) from general commercial services-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (CS-MU-V-CO-NP) combining district zoning to general commercial services-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (CS-MU-V-CO-NP) combining district zoning. Staff Recommendation: To grant general commercial services-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (CS-MU-V-CO-NP) combining district zoning. Planning Commission Recommendation: To grant general commercial services-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (CS-MU-V-CO-NP) combining district zoning. Applicant: SC Investors, LLC. (Peter Barlin). Agent: Alice Glasco Consulting (Alice Glasco). City Staff: Stephen Rye, 974-7604.
- The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No. 20110825-103 for general commercial services-mixed use-vertical mixed use building-conditional overlay-neighborhood plan (CS-MU-V-CO-NP) combining district zoning was approved on Mayor Pro Tem Cole's motion, Council Member Spelman's second on a 6-0 vote. Council Member Tovo abstained. The friendly amendment from Council Member Riley was to include in the ordinance, "On-site surface parking is prohibited except as parking for the existing improvements as per Exhibit A and up to 9,000 square feet of addition to the existing improvement." This was accepted by the maker of the motion and Council Member Spelman who seconded the motion.**
- Note: Exhibit A referenced in the amendment and adopted by Council was relabeled as Exhibit B in the final ordinance.**

Mayor Leffingwell recessed the Council Meeting at 5:21 p.m.

LIVE MUSIC

Marcia Ball and Friends

PROCLAMATIONS

Tribute recognizing Austin as The Live Music Capital of the World for 20 Years

Mayor Leffingwell called the Council Meeting back to order at 6:34 p.m.

PUBLIC HEARINGS AND POSSIBLE ACTION

111. Conduct a public hearing and consider a resolution authorizing the use of approximately 20,688 square feet for permanent drainage purposes, approximately 7,731 square feet for temporary access purposes, and approximately 36,345 square feet for a temporary workspace, staging area and material storage site in connection with the construction, use, maintenance, repair and replacement of a storm drain line and appurtenances for a portion of the East Bouldin - Euclid/Wilson Storm Drain Improvements project (CIP ID 5789.035) through dedicated parkland known as Gillis Park (in accordance with Sec. 26.001 et seq. of the Texas Parks and Wildlife Code.)
The public hearing was conducted and the motion to close the public hearing and adopt Resolution No. 20110825-111 was approved on Council Member Riley's motion, Council Member Martinez' second on a 6-0 vote. Council Member Spelman was off the dais.
110. Conduct a public hearing to receive public comment on the Solid Waste Services proposed rate and fee changes as part of the Fiscal Year 2011-2012 Proposed Budget.
The public hearing was conducted and the motion to close the public hearing was approved on Council Member Martinez' motion, Mayor Pro Tem Cole's second on a 6-0 vote. Council Member Spelman was off the dais.
112. Conduct a public hearing and consider an ordinance regarding a proposal from Atmos Energy Corporation to increase customer gas rates.
The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No. 20110825-112 was approved on Council Member Martinez' motion, Council Member Morrison's second on a 6-0 vote. Council Member Spelman was off the dais.
109. Conduct a public hearing and consider an ordinance regarding floodplain variances requested by Shoal Creek Walk, Ltd., owner of a commercial parking lot at 835 W. 6th Street, which is in the 25-year and 100-year floodplains of Shoal Creek.
The public hearing was conducted and the motion to close the public hearing and adopt Ordinance No. 20110825-109 as amended was approved on Council Member Riley's motion, Council Member Morrison's second on a 7-0 vote. The amendment was to include a new condition eight in part 4, to read, "If within three years the applicant has not demolished the parking lot, the parking lot must adhere to the City's commercial landscaping regulations."
114. Conduct a public hearing on the proposed property (ad valorem) tax rate for Fiscal Year 2011-2012.
The first public hearing on the proposed tax rate was closed.
108. Conduct a public hearing to receive public comment on the proposed rate and fee changes for the Austin Water Utility as part of the Fiscal Year 2011-2012 Proposed Budget.
The public hearing was conducted and the motion to close the public hearing was approved on Council Member Morrison's motion, Council Member Spelman's second on a 7-0 vote.
113. Conduct a Public Hearing to receive public comment on the City of Austin Fiscal Year 2011-2012 Proposed Budget.
The public hearing was conducted and the motion to close the public hearing was approved on Mayor Pro Tem Cole's motion, Council Member Martinez' second on a 7-0 vote.

Mayor Leffingwell adjourned the meeting at 9:35 p.m. without objection.

The minutes for the regular meeting of August 25, 2011 were approved on this the 22nd day of September 2011 on Council Member Spelman's motion, Council Member Tovo's second on a 7-0 vote.